THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.12329 of 2003

Dated: 23rd March, 2006

Between:

Smt. Vemula Parvathi. **PETITIONER**

AND

The General Manager,

Pension Cell, Andhra Bank,

Head Office, Koti, Hyderabad

& 2 others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.12329 of 2003

ORDER:

The husband of the petitioner, who was an officer of Andhra Bank, while working at Piduguralla Branch died on
2-9-1997. The petitioner states that her husband during his life time in the month of October, 1995, submitted option form for pension under the Andhra Bank (Employees') Pension Regulations, 1995, but the same was not received. It appears that on 18.01.1996, the petitioner's husband revoked his option with a request to treat his option for Bank's Contributory Provident Fund. The petitioner states that her husband before his death, on 05.10.1996 gave a declaration to the Bank that he wanted to become member of Banks Pension Fund, and requested the trustees of the Bank's Contributory Provident Fund to transfer the entire amounts contributed by him along with interest accrued thereon to the Banks Pension Fund. After the death

of her husband, the petitioner made representations on 02.09.1997 and 12.10.1997 to the respondents to grant her pension as per Banks Pension Fund Regulations, but the same was rejected by the Zonal Office of the respondents vide letter dated 24.12.1997 on the ground that the petitioner's husband did not exercise the option within time. The petitioner once again made representation dated 18.05.2001 to grant pension under the Andhra Bank (Employees') Pension Regulations, 1995 but the same was not considered. Hence the petitioner filed this writ petition assailing the order dated 24.12.1997 as illegal and arbitrary, and consequently direct respondents Nos. 1 & 2 to reconsider the representations of the petitioner dated 12-10-1997 and 18-5-2001.

The learned counsel for the petitioner submitted that since the husband of the petitioner during his life time, had requested the respondents to transfer the amounts contributed by him to the Bank's Contributory Provident Fund to the Banks Pension Fund, the action of the respondents in rejecting the application dated 12.10.1997 of the petitioner for grant of pension under the Banks Pension Fund, vide orders dated 24.12.1997 is illegal and arbitrary. He further submitted that the action of the respondents in not considering the application of the petitioner 18-5-2001 for grant of family pension is illegal and arbitrary. He thus prayed that the order dated 24-12-1997 be set aside and the respondents be directed to
re-consider the representations dated 12.12.1997 and 18.05.2001.

The respondents filed counter along with the material papers. Based on the averments made in the counter, the learned Standing Counsel submitted that the petitioner's husband opted for pension on 30.11.1994 i.e. much prior to the Andhra Bank (Employees') Pension Regulations, 1995 coming into force, and the petitioner's withdrew his option vide letter dated 18.01.1996, and thus his option for pension dated 30.11.1994 stood withdrawn. Long after the cut off date i.e. 25.01.1996, fixed for exercising option for pension, the petitioner's husband submitted option on 05.10.1996, and therefore, it was not entertained. Therefore, whatever amounts were contributed by the petitioner being a member to the Banks Contributory Provident Fund, along with the banks contribution, were paid to the petitioner. He thus submitted that the petitioner is not entitled to pension under the Banks Pension Fund, and prayed that the writ petition be dismissed.

Having heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, the only question that arises for consideration is whether the husband of the petitioner exercised his option for pension under the Banks Pension Scheme, and if so, whether the petitioner is entitled for grant of family pension.

The petitioner's husband first exercised his option for pension in terms of Andhra Bank Employees Pension Scheme 1993. While so, Andhra Bank (Employees') Pension Regulations, 1995 came into force. As per Regulation 3(3)(a) thereof, an employee who is in service of the bank before the notified date and continued to be in the service of the bank on or after the notified date shall exercise option in writing within 120 days from the notified date, i.e. on or before 25.01.1996 to become a member of the Pension Fund constituted and authorize the Trust of the

Provident Fund of the Bank to transfer the entire contribution of the bank along with interest accrued thereon to the credit of the Pension Fund. The petitioner's husband, who exercised his option for pension under the 1993 Pension Scheme, vide letter dated 18.01.1996 sought to withdraw from the scheme, which was permitted. Accordingly, the petitioner's husband stood withdrawn from 1993 Pension Scheme. The petitioner's husband, who withdrew from 1993 Pension Scheme, however, did not give option for pension in terms of Andhra Bank (Employees') Pension Regulations, 1995 before the cut off date i.e. 25.01.1996. However, long after expiry of the cut off date, on 05.10.1996 submitted his option, but the same was refused to be received by the Pension Cell as it was submitted long after the cut off date. Thus, the petitioner is not a member of the Pension Scheme under the 1995 Regulations. It is stated that the petitioner's husband being a member of the Bank's Contributory Provident Fund, the entire amounts credited to his account along with interest accrued thereon were settled. Since the petitioner's husband did not give option for joining the Pension Scheme under the 1995 Regulations, within time, no exception can be taken to the action of the respondents in rejecting the request of the petitioner for grant of pension, and no direction can be given to the respondents to reconsider the applications of the petitioner for grant of pension, and more so when the petitioner's husband failed to exercise his option within time.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J.)

Date:23rd March, 2006.

GRK

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.8736 of 2006

Dated:26th April, 2006

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w.a.1138 of 1999

W.P.